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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,811	08/10/2005	Andreas Fink	10191/3705	1654
26646 7590 11/24/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER REESE, DAVID C				
ART UNIT		PAPER NUMBER		
3677				
MAIL DATE		DELIVERY MODE		
11/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,811

Applicant(s)

FINK ET AL.

Examiner

David C. Reese

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-11, 13-17 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-11, 13-17, and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

THIS FINAL ACTION IS RESPONSIVE TO THE AMENDMENT FILED 10/20/2008.

- Claims 1-8, 12, 18 were canceled.
- Claims 19-26 were added.
- Claim 9 was amended.
- Claims 9-11, 13-17, and 19-26 are pending.

Claim Objections

[1] Claim(s) were previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 10/20/2008. Accordingly, the objection(s) to the claim(s) have been withdrawn.

Claim Rejections - 35 USC § 112

[2] Applicant has addressed all rejections under 35 USC § 112 to the Claims in the amendment filed 10/20/2008. Accordingly, the Examiner has withdrawn the 35 USC § 112 rejections.

Claim Rejections - 35 USC § 102

[3] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United

States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[4] Claims 9-11, 13-14, 17, 19, 22-23, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacob et al USP 6309132 because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

As for Claim 1, Jakob discloses of a fastening comprising:

a first component with a threaded bushing (housing 10 with threaded inserts

16,18, Column 2 lines 52-65)

a 2nd component (column 40) with a keyhole-like cut out with a smaller 50,52 and larger opening 46,48 (42,44, see Column 2 line 64-Column 3 line 6)

a self-locking (Column 3 lines 18-23, copied below) bolt (20) configured to be screwed into bushing such that it is guided with the head (38) through the larger opening (Fig 2) and head (38) engages behind the smaller cut out, said bolt having tool engagement surfaces (32) at an end of the shank (28), wherein the head (38) has a bottom surface (bottom of 38) connecting the head (38) to the shank and a top surface (top of 38) that is round and smooth (the bottom of 38 connects the head to the shank and the top of 38 is round and smooth).

Re claim 10: engagement surfaces are TORX® which is an external teething.

Re claim 11: Left hand thread is taught in Column 3 line 24-25.

Re claim 13: Self-locking bolt is taught in Column 3 lines 17-23 as a coated thread (60).

shank is partially provided with a plastic coating 60 which allows the fastener 20 to remain in the pre-assembled position. The coating 60 not only secures the pre-assembled state, but also locks the screw when finally tightened as shown in FIG. 1.

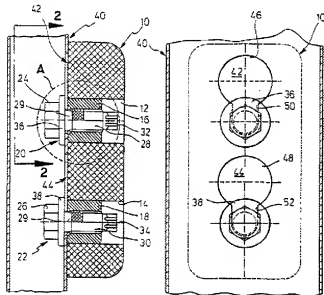


FIG. 1

FIG. 2

FIG. 1

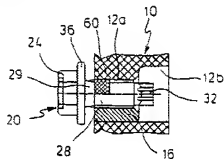


FIG. 3

Re claim 14: It has been held that all threads are to some extent thread-forming for a corresponding bore, and thus would be for a corresponding bushing. As noted above, the thread and its coating are self-locking.

Re claim 17: The fasteners are described as threaded shanks in Column 2:

Threaded fasteners 20, 22 are provided with a head 24, 26, threaded shanks 28, 30 and ends 32, 34. The threaded shank 28, 30 are threaded into the inner threads of the inserts 16, 18. The ends 32, 34 of the shanks 28, 30 each have a Torx-portion. The heads 24, 26 have integrally formed radial flanges 36, 38. A non-threaded portion 29 joins the heads 24, 26.

Re: Claim 19, 23, wherein the engagements surfaces (32) have a form of one of an external toothing or an external polyhedron, wherein the shank of the bolt has a left-hand thread (Column 3 line 24-25), and wherein the bolt has a coated thread (60, Column 3 lines 17-23), the self-locking being achieved via the coating.

Re: Claims 22, 26, wherein the bolt shank has a thread over at least a portion of the shank.

Claim Rejections - 35 USC § 103

[5] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

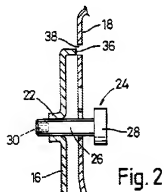
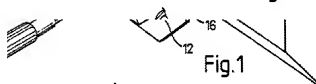
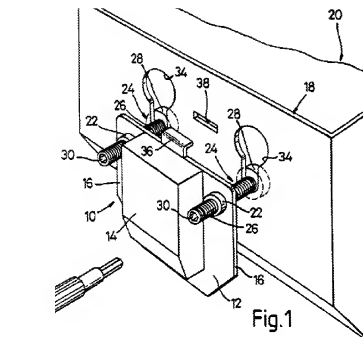
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[6] Claims 15-16 and 20-21, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakob et al USP 6309132 in view of EP 0747604. As noted above, examiner was unable to obtain a copy of the document, but she did obtain a copy of the figures, and thus is applying the reference as best she can, rather than give no opinion until the entire document is submitted.

EP 604 teaches a similar fastener to that of Jakob, but includes mating parts 36,38 which serve to prevent both rotation and translation of the 1st component when assembled. Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Jakob and EP 604 before him at the time the invention was made, to modify Jakob as taught by EP604 to include translational and rotational guards to prevent translation of the 1st component and rotation of the 1st component in order to obtain a secure and stable assembly. One would have been motivated to make such a combination because if the components were allowed

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translational and/or rotational movement, the heads could move to the larger hole of the keyhole and the assembly would come loose.



Response to Arguments

[7] Applicant's amendments and arguments filed 10/20/2008 regarding rejections under 35 U.S.C. 102 have been fully considered but they are not persuasive. In the instant case, the examiner maintains that the prior art of Jakob et al. remains anticipatory towards the current, amended claim listing. More specifically, the applicant argues that Jakob et al. does not disclose of the head having a bottom surface connecting the head to the shank and a top surface that is round and smooth. The examiner disagrees. As shown and described above, the examiner maintains that the head (38) has a bottom surface (bottom of 38) connecting the head (38) to the shank and a top surface (top of 38) that is round and smooth (the bottom of 38 connects the head to the shank and the top of 38 is round and smooth). Applicant is reminded that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974), and that things clearly shown in reference patent drawings qualify as prior art features, even though unexplained by the specification. *In re Mraz*, 173 USPQ 25 (CCPA 1972). Moreover, it is the claims that define the claimed invention, and it is claims, not drawings or specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064.

[8] Applicant's arguments filed 10/20/2008 regarding rejections under 35 U.S.C. 103 have been fully considered but they are not persuasive. Applicant states that there must be some suggestion or motivation to modify or combine reference teachings. In response, however, the examiner would like to point out that KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. *Ex parte Smith*, -- USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

Conclusion

[9] THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

[10] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached at (571) 272-6987. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese

/D. C. R./
Examiner, Art Unit 3677

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677